

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG

MICHAEL J. GREENE,

Plaintiff,

v.

Civ. Action No. 1:20-CV-64  
(Kleeh)

RANDOLPH COUNTY et al.,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 24]

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On April 9, 2020, the pro se Plaintiff, Michael J. Greene ("Plaintiff"), filed a Complaint pursuant to 42 U.S.C. § 1983 against numerous defendants in this case. The following is a summary of his allegations:

Greene raises First, Sixth, Eighth, and Fourteenth Amendment claims, alleging retaliation; racial discrimination; deliberate indifference to serious medical and mental health needs; wrongful transfers; ignoring of grievances or not granting grievances in his favor; unfair disciplinary hearings; and a multitude of conditions of confinement claims against the 42 named defendants. Plaintiff admits to having hallucinations and hearing voices, which he contends began during a 2016 hospitalization at Davis Medical Center where he was diagnosed with polycystic kidneys and a small pericardial effusion, when medical staff put a 'liquid item' in his IV, which he now contends permits others to hear his thoughts on the radio, control his thoughts, and intentionally cause him pain. He also alludes to an incident of excessive force

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which occurred in October of 2016, and seeks to raise a Monell claim.

ECF No. 24 at 5.

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï for initial review. On July 23, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the Complaint without prejudice.

The R&R also informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." The docket reflects that Plaintiff accepted service of the R&R on July 27, 2020. See ECF No. 25. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarciro v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W.

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Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 24]. The Court **ORDERS** that the Complaint be **DISMISSED WITHOUT PREJUDICE**. Plaintiff's pending motions to proceed as a pauper [ECF No. 2]; to show cause for a preliminary injunction [ECF No. 4]; for appointment of counsel [ECF No. 5]; to appoint the WVU School of Law Clinical Law Program as counsel [ECF No. 11]; for a jury trial, to engage in discovery, and for the Court to serve the defendants [ECF No. 14]; and for a copy of a document [ECF No. 26] are all **DENIED AS MOOT**. The Court further **ORDERS** that this matter be **STRICKEN** from the Court's active docket and **DIRECTS** the Clerk to enter a separate judgment order.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via electronic means and to the pro se Plaintiff via certified mail, return receipt requested.

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DATED: September 2, 2020

/s/ Thomas S. Kleeh

THOMAS S. KLEEH

UNITED STATES DISTRICT JUDGE